Supreme Court, U.S.
FILED

94 495 SEP 13 1994

OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

October Term, 1994

ROGER F. QUISENBERRY,

Petitioner,

v.

JACK M. BERK, Trustee, and
MILTON T. BAUER, CLERK OF
THE CIRCUIT COURT OF PALM BEACH
COUNTY, FLORIDA,

Respondents.

On Petition For Writ Of Certiorari To The Fourth District Court Of Appeal Of Florida

PETITION FOR WRIT OF CERTIORARI

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40 pp

QUESTION PRESENTED

Whether Due Process requires that a legal titleholder receive actual notice of an application for a tax deed by certified mail or personal service before his or her property is auctioned for unpaid taxes?

PARTIES TO THE PROCEEDING

The parties to the proceedings below were Petitioner, Roger F. Quisenberry, and Respondents, Jack M. Berk, Trustee, and Milton T. Bauer, Clerk of the Circuit Court of Palm Beach County, Florida. The same parties are before this Court.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	v
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL PROVISIONS INVOLVED	1
STATUTES INVOLVED	2
STATEMENT OF THE CASE	2
SUMMARY OF THE ARGUMENT	3
ARGUMENT	3
I. IN BALANCING THE INTERESTS OF THE STATE WITH THAT OF PROPERTY OWNERS, THE PROCEDURAL SAFEGUARDS IMPLEMENTED BY FLORIDA DO NOT ADEQUATELY PROTECT THE INTERESTS OF PROPERTY OWNERS	7
A. *THE PRIVATE INTEREST AFFECTED BY STATE ACTION*	8
B. *THE RISK OF AN ERRONEOUS DEPRIVATION OF A PROPERTY INTEREST THROUGH THE SAFEGUARDS IMPLEMENTED BY FLORIDA CREATES A SUBSTANTIAL RISK TO PROPERTY OWNERS*	8
C. *THE STATE'S INTERESTS*	10

TABLE OF CONTENTS – Continued

Page

II. THE FLORIDA COURT ERRED IN NOT FOLLOWING *MULLANE* AND OTHER PRECEDENT OF THIS COURT 10

CONCLUSION 13

TABLE OF AUTHORITIES

Page

CASES

Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985) 9

Dawson v. Saada, 608 So.2d 806 (Fla. 1992)....6, 8, 9, 11

Frank v. Maryland, 359 U.S. 360 (1959)..... 10

Fuentes v. Shevin, 407 U.S. 67 (1972).....4, 10

G.M. Leasing Corp. v. United States, 429 U.S. 338 (1977) 10

Grannis v. Ordean, 234 U.S. 385 (1914)..... 4

Greene v. Lindsey, 456 U.S. 444 (1982)..... 11

Loretto v. Teleprompter Manhattan CATV Corp, 458 U.S. 419 (1982) 7

Marchetti v. United States, 390 U.S. 39 (1968)..... 10

Mathews v. Eldridge, 424 U.S. 319 (1976) 7

Mennonite Board of Missions v. Adams, 462 U.S. 791 (1983) 8, 12

Milliken v. Meyer, 311 U.S. 457 (1940) 4

Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950) 3, 4, 5, 10, 11

Penn Central Transp. Co. v. New York, 458 U.S. 104 (1978) 7

Schroeder v. City of New York, 371 U.S. 208 (1962) ..5, 11

Walker v. Hutchinson, 352 U.S. 112 (1956)..... 11

TABLE OF AUTHORITIES – Continued

Page

STATUTES

Fla. Admin. Code R. 12D-13.062(2)(b) 2, 9

Fla Stat. § 48.031 2

Fla. Stat. § 197.522 ..... 2, 3, 5, 6, 7, 8, 9

United States Constitution, Fifth Amendment .. 1, 10, 12

United States Constitution, Fourteenth Amendment 1, 10, 12

28 U.S.C. § 1257 1

OPINIONS BELOW

The Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida granted summary judgment in favor of Defendants/Respondents in an unpublished Order, which is reprinted in the Appendix hereto ("App.") at 3. The Fourth District Court of Appeal for the State of Florida affirmed the Circuit Court in an unreported Final Judgment, App. at 1.

Mr. Quisenberry timely filed this Petition for Writ of Certiorari.

JURISDICTION

Petitioner invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

FIFTH AMENDMENT:

> No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

FOURTEENTH AMENDMENT: (DUE PROCESS) § 1:

> No state shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny

to any person within its jurisdiction the equal protection of the laws.

STATUTES INVOLVED

This case implicates Fla. Stat. § 197.522, App. at 8, Fla. Stat. § 48.031(1)(a), App. at 11, and Fla. Admin. Code Rule 12D-13.062, App. at 12.

STATEMENT OF THE CASE

This case presents the question of whether Due Process requires that a property owner receive actual notice of an application for a tax deed by certified mail or personal service before property is auctioned for unpaid taxes.

Petitioner Roger F. Quisenberry owned numerous parcels of property in Palm Beach County, Florida. On one parcel, located on Western Way in Lantana, Florida ("Western Way"), he owed Two Hundred and Seventy-seven dollars and 54/100 ($277.54) in taxes for the 1984 tax year. App. at 16. As a result of Mr. Quisenberry's failure to pay those taxes, the local clerk's office ("Clerk") issued a Tax Sale Certificate against Western Way to the "1982 Trust for Jessica Lynn Israel." The 1982 Trust for Jessica Lynn Israel then applied for a tax deed to Western Way.

Pursuant to Fla. Stat. § 197.522(1), the Clerk attempted to send notice of the tax sale of the Western Way parcel to Mr. Quisenberry by certified mail. App. at

5. However, as is reflected in App. at 7, Mr. Quisenberry never received this notice. Also pursuant to Fla. Stat. § 197.522(2), the Clerk attempted to serve notice of the tax sale of the Western Way parcel to Mr. Quisenberry by personal service of process. App. at 18. However, as is reflected in App. at 20, Mr. Quisenberry never received this notice either.

SUMMARY OF THE ARGUMENT

Due Process requires that in any proceeding which is to be accorded finality, a party in interest must be provided notice reasonably calculated, under all the circumstances, to apprise interested parties of the action and afford them the opportunity to be heard. Fla. Stat. § 197.522, and recent Florida case law interpreting this statute, fail to satisfy this constitutional requirement in that notice of an application for a tax deed need only be *sent* to the property owner in an attempt to apprise him or her of such an application, and only if the address of that property owner is known at the time the application is made. There is no requirement that the notice be received by the property owner, nor are the requirements of Fla. Stat. § 197.522 otherwise reasonably calculated to apprise property owners of such an application.

ARGUMENT

In *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), this Court held that in all actions, whether *in rem* or *in personam*, notice must be reasonably

calculated to reach those parties whose names and addresses are known and that constructive notice by publication is not sufficient.

> An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them the opportunity to present their objections.

Id. at 314; *Milliken v. Meyer*, 311 U.S. 457 (1940); *Grannis v. Ordean*, 234 U.S. 385 (1914).

In *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972), this Court further expanded on the principle set forth in *Mullane*.

> The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decisionmaking when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment – to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon the application of and for the benefit of a private party.

In this case Mr. Quisenberry did not receive notice that the Western Way parcel was being sold for $277.54 in delinquent taxes. Notice of the application of the tax deed was sent to Mr. Quisenberry by certified mail, but was not received by him. Nor was Mr. Quisenberry personally served with such notice. Certainly, as the legal titleholder

of the Western Way parcel, he lost a substantial property interest in it when it was auctioned.

Fla. Stat. § 197.522(1) provides that property owners such as Mr. Quisenberry are deemed to have received actual notice of the application for a tax deed on their properties if notice of such an application is merely sent to him by certified mail, and only if the property owner's address is known by the clerk at the time the application is made.[1] Although Fla. Stat. § 197.522 attempts to provide an additional safeguard to protect the interests of property owners by requiring that notice of the application of a tax deed be personally served on a property owner, the statute itself, as well as recent case law interpreting same, negate this safeguard.

Fla. Stat. § 197.522(2) provides, in part, that:

> [i]n addition to the notice provided in subsection (1), the sheriff of the county in which the legal titleholder resides shall, at least 20 days prior to the date of the sale, notify the legal titleholder of record of the property on which the tax certificate is outstanding. . . . Such notice *shall* be served as specified in chapter 48; if the sheriff is unable to make service, he shall post a

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[1] Fla. Stat. § 197.522(1)(e) also provides that notice through publication is deemed sufficient for actual notice as well. Although publication of the sale of the Western Way parcel was apparently made, this Court has repeatedly held that "[t]he general rule which emerged from the *Mullane* case is that publication is not enough with respect to a person whose name and address are known or very easily ascertainable and whose legally protected interests are directly affected by the proceedings in question." *Schroeder v. City of New York*, 371 U.S. 208, 212-13 (1962).

copy of the notice in a conspicuous place at the legal titleholder's last known address.

However, this same provision also provides that "[t]he inability of the sheriff to serve notice shall not affect the validity of the tax deed issued pursuant to the notice." The Florida Supreme Court recently held in *Dawson v. Saada*, 608 So.2d 806 (Fla. 1992) that any problem with the sheriff's service on a property owner of such notice has no legal effect on the validity of tax deed issued on the property. Accordingly, the only notice required by Florida law of an application for a tax deed is that notice of the application be sent to the property owner's address by certified mail, and only if the address is known at the time the application is made. In fact, the statute makes clear that non-receipt of this notice will not affect the validity of the tax deed. Subsection (d) of Fla. Stat. § 197.522(1) provides that "[t]he failure of anyone to receive notice as provided herein shall not affect the validity of the tax deed issued pursuant to the notice."

In this case, the tax deed issued to 1982 Trust for Jessica Lynn Israel on the Western Way parcel was upheld based on the holding in *Dawson* that the inability of the sheriff to serve notice did not invalidate such a deed. In short, the validity of the tax deed issued was upheld despite a complete lack of actual notice provided to Mr. Quisenberry. After the issuance of the tax deed on Western Way, Florida law vested the 1982 Trust for Jessica Lynn Israel with a fee simple title to the Western Way parcel.

The issuance of the tax deed on the Western Way parcel resulted in a taking of Mr. Quisenberry's property

without adequate notice and without compensation. It is fundamentally unfair and a clear violation of Mr. Quisenberry's Due Process rights to be deprived of property in such a manner. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982); *Penn Central Transp. Co. v. New York City*, 438 U.S. 104 (1978).

I. IN BALANCING THE INTERESTS OF THE STATE WITH THAT OF PROPERTY OWNERS, THE PROCEDURAL SAFEGUARDS IMPLEMENTED BY FLORIDA DO NOT ADEQUATELY PROTECT THE INTERESTS OF PROPERTY OWNERS

In *Mathews v. Eldridge*, 424 U.S. 319 (1976), this Court formulated the test to be applied to determine whether certain procedures comport with due process.

> More precisely, our prior decisions indicate that identification of the specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id. at 335. By applying the *Mathews* test to the issuance of the tax deed on the Western Way parcel, it is readily apparent that the notice provided to Mr. Quisenberry under Fla. Stat. § 197.522 did not comport with constitutional Due Process requirements, and as such this statute,

as applied to Mr. Quisenberry, did not adequately protect his property interests in the Western Way parcel, and therefore fails to satisfy Due Process.

A. THE PRIVATE INTEREST AFFECTED BY STATE ACTION

The private interest at stake in the issuance of a tax deed is the property interest of the record title holder. Mr. Quisenberry, the record titleholder of the Western Way parcel, assuredly was an interested party in the application for, and subsequent issuance of, the tax deed on the Western Way parcel, *Mennonite Board of Missions v. Adams*, 462 U.S. 791 (1983), and as such he must be provided adequate notice.

B. THE RISK OF AN ERRONEOUS DEPRIVATION OF A PROPERTY INTEREST THROUGH THE SAFEGUARDS IMPLEMENTED BY FLORIDA CREATES A SUBSTANTIAL RISK TO PROPERTY OWNERS

Florida's procedures for providing notice to property owners of an application for a tax deed on their property create a substantial risk to property owners. While Florida requires that notice of the application be sent by certified mail, there is no requirement that it be received. Fla. Stat. § 197.522(1)(d). Nor, for that matter, is there a requirement that notice be sent by certified mail. "If no address is listed in the tax collector's statement, then no notice shall be required." Fla. Stat. § 197.522(1)(b). Moreover, it is abundantly clear that Florida law does not require personal service of such notice. *Dawson*, at 808

n.1. Nor does Florida law require that if personal service cannot be effectuated, notice be posted in a conspicuous place at the property owner's residence. *Compare* Fla. Admin. Code R. 12D-13.062(2)(b);[2] *with Dawson*, at 808 n.1.

The additional or substitute procedural safeguard of sending notice of a tax sale to a property owner at his residence by certified mail, and requiring receipt of same, is a minimal burden to the State, but will provide significant protection to the property owner. Similarly, requiring that personal service be properly effectuated, or that such notice be posted at his residence in a manner which would reasonably provide notice of the application, would also be a minimal burden on the State and would provide adequate protection to the property owner. If one of these additional procedural safeguards were employed, both the interests of the property owner and the State would be better served. The State would receive its unpaid taxes and the property owner would be able to protect his or her property interest.

In this case, Mr. Quisenberry did not receive notice of the application for a tax deed on the Western Way parcel by certified mail, nor was he personally served with such

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[2] Much of the argument in the state courts below discussed due process requirements of notice embodied in Section 197.522, Florida Statutes. Mr. Quisenberry acknowledges that the failure to follow state procedural requirements does not, *ipso facto*, establish a violation of federal due process. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985). He contends, however, that the failure to serve him personally or post notice of the application at his residence violates federal constitutional Due Process.

notice. It would have been a simple matter to insure that before the issuance of the tax deed that Mr. Quisenberry had received notice of the application either by certified mail or personal service.

C. THE STATE'S INTERESTS

Florida has an important interest at stake in collecting property taxes. As in most other states, property taxes are a primary source of revenue necessary to fund both State and local governmental services. However, a State's power to collect taxes is not unbridled.

In *Marchetti v. United States*, 390 U.S. 39 (1968), this Court, while recognizing the power of government to tax, also acknowledged that the Constitution places limitations in connection with the exercise of this power. *Id.* at 58. Indeed, it was the concern for abuses of this very power which led to the adoption of the Due Process Clause contained in the Fifth and Fourteenth Amendments. *See Fuentes v. Shevin*, 407 U.S. 67 (1972); *Frank v. Maryland*, 359 U.S. 360, 378 (1959); *G.M. Leasing Corp. v. United States*, 429 U.S. 338 (1977).

II. THE FLORIDA COURT ERRED IN NOT FOLLOWING *MULLANE* AND OTHER PRECEDENT OF THIS COURT

The Florida court failed to follow this Court's decision in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), and its progeny, in invalidating a tax sale of a parcel of land despite the acknowledged problems with the sheriff's service which resulted in the property

owner failing to receive actual notice of the application of a tax deed. *Dawson v. Saada*, 608 So.2d 806 (Fla. 1992).

In *Mullane*, this Court invalidated a New York statute which authorized notice by publication to beneficiaries of a common trust informing them about an annual judicial settlement of the common trust account. Notice by publication was held to be inadequate because "under the circumstances it [was] not reasonably calculated to reach those who could easily be informed by other means at hand." *Id.* at 319. Following *Mullane*, constructive notice of condemnation proceedings has been recognized as inadequate to notify a landowner whose identity was known to the City, *Walker v. Hutchinson*, 352 U.S. 112 (1956); publication and posting were held insufficient to apprise property owners of condemnation proceedings when his name and address were readily ascertainable from public records, *Schroeder v. City of New York*, 371 U.S. 208 (1962); and posting of a summons on a apartment door was found inadequate to provide notice in forcible entry and detainer actions, *Greene v. Lindsey*, 456 U.S. 444 (1982).

The general rule set forth in *Mullane* was that:

> [e]xceptions in the name of necessity do not sweep away the rule that within the limits of practicability, notice must be such as is reasonably calculated to reach interested parties. Where the names and post office addresses of those affected by a proceeding are at hand, the reasons disappear for resort to means less likely than the mails to apprise them of its pendency.

Id. at 318.

In this case the Clerk was aware that Mr. Quisenberry had not received notice of the application for a tax deed on the Western Way parcel by certified mail. As such, holding that Mr. Quisenberry received notice of this application through publication, or a patently inadequate service by the sheriff, does not satisfy the minimal requirements of Due Process protected by the Fifth and Fourteenth Amendments. Rather, because the Clerk was aware that Mr. Quisenberry had not received notice of the application through the mail, the necessity of the personal service of this notice was even more important. To hold that any problem with the personal service of the notice has no legal effect on the validity of the tax deed would be to deny Mr. Quisenberry his right to Due Process required by the United States Constitution.

This Court has repeatedly reaffirmed this proposition. In *Mennonite*, this Court said "[n]otice by mail or *other means* as *certain* to *insure* actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the liberty or property interest of any party . . . ." (emphasis added)

Based on this Court's reasoning in the above cited case law, the decision of the Fourth District Court of Appeal of Florida to affirming the trial court's granting Respondents' Second Amended Motion for Summary Judgment should be reversed.

CONCLUSION

Based on the foregoing, Petitioner respectfully requests this Court grant the Petition for Writ of Certiorari.

Respectfully submitted,

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APPENDIX

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

ROGER F. QUISENBERRY,

Plaintiff,

vs.

JACK M. BERK, Trustee, and MILTON T. BAUER, CLERK OF THE CIRCUIT COURT OF PALM BEACH COUNTY,

Defendants.
_____/

Case No. CL 92-1674 AN

4DCA Case No. 93-01640

FINAL JUDGMENT

This action came before the Court upon the Second Amended Motion of the Defendant, Jack Berk, Trustee, for summary judgment.

It is hereby ordered and adjudged that all notices were proper except that the Sheriff, rather than post the notice in a conspicuous place, handed it to the sole person on the premises. Plaintiff was out of the State and so no one was available to be served.

It is further hereby ordered and adjudged that *Dawson v. Saada*, 608 So.2d 806 (1992) holds that any problems with the sheriff's service are of no legal effect.

THEREFORE, it is hereby ORDERED and ADJUDGED as follows:

A) The motion of the Defendant, Jack Berk, for final summary judgment is granted;

B) The Plaintiff, Roger Quisenberry, shall take nothing by this action; and

C) The Defendant, Jack Berk, shall go hence without day [sic].

DONE AND ORDERED in premises at West Palm Beach, Palm Beach County, Florida this 20 day of May, 1994.

/s/ Circuit Court Judge
CIRCUIT COURT JUDGE

Copies furnished:

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IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR PALM BEACH COUNTY.
CIVIL DIVISION

CASE NO. CL 92-1674-AN

ROGER F. QUISENBERRY,

Plaintiff,

vs.

JACK M. BERK, Trustee, and MILTON T. BAUER, CLERK OF THE CIRCUIT COURT OF PALM BEACH COUNTY,

Defendants.
_____/

ORDER GRANTING DEFENDANT BERK'S SECOND AMENDED MOTION FOR SUMMARY JUDGMENT

This action came before the Court upon the second amended motion of the Defendant, Jack M. Berk, Trustee, for summary judgment and the Court finds as follows:

All notices were proper except that the Sheriff, rather than post the notice in a conspicuous place, handed it to the sole person on the premises. Plaintiff was out of the State and so no one was available to be served.

Dawson v. Saada, 608 So.2d 806 (1992) holds that any problems with the sheriff's service are of no legal effect. Therefore Defendant's motion for summary judgment is granted.

ORDERED at West Palm Beach, Florida, this 26 day of April, 1993.

/s/ Edward Fine
Edward Fine, Circuit Judge

Copies furnished:
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120 S. Olive Ave., #555
West Palm Beach, FL 33401

[STAMP]

CERTIFIED

P 724 240 924

MAIL

JOHN B. DUNKLE

Clerk of Court

Tax Deed Dept.

PALM BEACH COUNTY

P.O. Box 484

West Palm Beach, FL 33402-0484

RETURNED

TO

SENDER

UNCLAIMED

RETURN RECEIPT REQUESTED

ALL RECORDS IN THIS OFFICE ARE MICROFILMED INSURE LEGIBILITY OF YOUR INSTRUMENT. USE GOOD BLACK TYPEWRITER RIBBON AND BLACK INK. WRITE CLEARLY AND FIRMLY.

Name _____

1st Notice 12/11

2nd Notice 12-16

Return 12-26

1611 (illegible) 0 (illegible)

ROGER F. QUISENBERRY

5421 S. FLAGLER DR

WEST PALM BEACH, FL 33405

Is your RETURN ADDRESS completed on the reverse side?

• **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. *The return receipt fee will provide you the name of the person delivered to and the date of delivery.* For additional fees the following services are available. Consult postmaster for fees and check box[es] for additional service[s] requested.

1. [ ] Show to whom delivered, date, and addressee's address. *(Extra charge)*

2. [ ] Restricted Delivery *(Extra charge)*

---

3. Article Addressed to:

16112'89 07

ROGER F. QUISENBERRY

5421 S FLAGLER DR

WEST PALM BEACH, FL 33405

---

4. Article Number

P 724 240 924

[ ] Registered	[ ] Insured
[✔] Certified	[ ] COD
[ ] Express Mail	[ ] Return Receipt for Merchandise

Always obtain signature (illegible)

or agent and *DATE DEL*

---

5. Signature – Addressee **UNCLAIMED**

X RETURNED TO SENDER

---

6. Signature – Agent

X

---

7. Date of Delivery

---

8. Addressee's Address *(ONLY if requested and fee paid).*

(ILLEGIBLE)

Thank you for using

Return Receipt Service.

Fla. Stat. 197.522 provides:

197.522. Notice to owner when application for tax deed is made. –

(1)(a) The clerk of the circuit court shall notify, by certified mail with return receipt requested or by registered mail if the notice is to be sent outside the continental United States, the persons listed in the tax collector's statement pursuant to s. 197.502(4) that an application for a tax deed has been made. Such notice shall be mailed at least 20 days prior to the date of sale. If no address is listed in the tax collector's statement, then no notice shall be required.

(b) The clerk shall enclose with every copy mailed a statement as follows:

WARNING: There are unpaid taxes on property which you own or in which you have a legal interest. The property will be sold at public auction on (date) unless the back taxes are paid. To make payment, or to receive further information, contact the clerk of court immediately at (address), (telephone number).

(c) The clerk shall complete and attach to the affidavit of the publisher a certificate containing the names and addresses of those persons notified and the date the notice was mailed. The certificate shall be signed by the clerk and his official seal affixed. The certificate shall be prima facie evidence of the fact that notice was mailed. If no address is listed on the tax collector's certification, the clerk shall execute a certificate to that effect.

(d) The failure of anyone to receive notice as provided herein shall not affect the validity of the tax deed issued pursuant to the notice.

(e) A printed copy of the notice as published in the newspaper, accompanied by the warning statement described in paragraph (b), shall be deemed sufficient notice.

(2) In addition to the notice provided in subsection (1), the sheriff of the county in which the legal titleholder resides shall, at least 20 days prior to the date of sale, notify the legal titleholder of record of the property on which the tax certificate is outstanding. The original notice and sufficient copies shall be prepared by the clerk and provided to the sheriff. Such notice shall be served as specified in chapter 48; if the sheriff is unable to make service, he shall post a copy of the notice in a conspicuous place at the legal titleholder's last known address. The inability of the sheriff to serve notice on the legal titleholder shall not affect the validity of the tax deed issued pursuant to the notice. A legal titleholder of record who resides outside the state may be notified by the clerk as provided in subsection (1). The notice shall be in substantially the following form:

WARNING

There are unpaid taxes on property which you own. The property will be sold at public auction on (date) unless the back taxes are paid. To make arrangements for payment, or to receive further information, contact the clerk of court immediately at (address), (telephone number).

In addition, if the legal titleholder does not reside in the county in which the property to be sold is located, a copy of such notice shall be posted in a conspicuous place on the property by the sheriff of the county in which the property is located. However, no posting of notice shall be required if the property to be sold is classified for assessment purposes, according to use classifications established by the department, as nonagricultural acreage or vacant land.

(3) Nothing in this chapter shall be construed to prevent the tax collector, or any other public official, in his discretion from giving additional notice in any form concerning tax certificates and tax sales beyond the minimum requirements of this chapter.

Fla. Stat.§ 48.031(1)(a) provides:

(1)(a) Service of original process is made by delivering a copy of it to the person to be served with a copy of the complaint, petition, or other initial pleading or paper or by leaving the copies at his usual place of abode with any person residing therein who is 15 years of age or older and informing the person of their contents. Minors who are or have been married shall be served as provided in this section.

Fla. Admin. Code Rule 12D-13.062 provides:

Rule 12D-13.062 Notices; Advertising, Mailing, Delivering and Posting of Notice of Tax Deed Sale.

(1) Advertising.

(a) Upon receipt from the tax collector of the tax collector's certification and the tax deed application the clerk shall publish a notice of the pending sale once each week for four (4) consecutive weeks at weekly intervals in a local newspaper. The form of the notice shall be as prescribed by the Department of Revenue. No tax deed shall be held until 30 days after the first publication of notice.

(b) The clerk shall obtain proof of publication and file the same in his office before holding a tax deed sale. Proof of publication may be a copy of the advertisement showing the date the advertisement was published and copies of all four (4) advertisements. The four (4) advertisements shall not be clipped from the paper, but shall remain intact so that the date line of the paper is shown. Proof of advertisement may also be in the form of a publisher's affidavit with one copy of the advertisement attached.

(c) The form of the notice shall be substantially as follows:

Notice of Application for Tax Deed

NOTICE IS HEREBY GIVEN That

The holder of the following certificates has filed said certificates for a tax deed to be issued thereon. The certificate numbers and years of issuance, the description of the

property, and the names in which it was assessed are as follows:

___ Certificate No./Year of Issuance/Description of Property/Name in which assessed

All of said property being in the County of ___, State of Florida.

Unless such certificate or certificates shall be redeemed according to law the property described in such certificate or certificates will be sold to the highest bidder at the courthouse door on the ___ day of ___ at ___ A.M.

Dated this ___ day of 19-.

Clerk of the Circuit Court of ___ County, Florida Ad No.___

The notice shall be single column and the size of the print shall be the same as any other legal advertisement. The clerk of the court shall not consolidate legal advertisements of tax deed applications with different legal descriptions. A tax deed shall have only one (1) legal description included on the deed. Consolidation sales are prohibited. The clerk shall sell the land in each tax deed application separately.

(2) Delivering and Posting.

(a) At least 30 days prior to the date of sale, the clerk shall prepare a notice containing the warning required by Section 197.522(2), F.S., and:

1. If the owner of the property to be sold resides in the same county in which the property is located, deliver

an original and sufficient copies of the notice to the sheriff of that county and

2. If the owner resides in Florida outside the county where the land is located, deliver an original and sufficient copies of the notice to the sheriff of the county in which the property is located, unless the property is assessed as non-agricultural acreage or vacant land.

3. If the owner resides outside the State of Florida, the clerk shall send notice to the sheriff of the county where the property is located, unless the property is assessed as non-agricultural acreage or vacant land.

(b) At least 20 days prior to the date of sale, the sheriff of the county where the owner resides shall serve the notice received from the clerk in the manner specified in Chapter 48, and the sheriff of the county where the property is located shall post the notice in a conspicuous place on the property.

(3) Mailing. At least 20 days prior to the date of sell, the clerk shall mail notices, by certified mail, to all persons listed in the tax collector's certification. Such notices shall contain the warning required by Section 197.522(1)(b), F.S. When such warning, combined with a copy of the advertised notice, is sent, it shall be deemed sufficient notice.

(4) The clerk shall prepare a certificate containing the names and addresses of those persons notified by mail and the date of mailing. The certificate shall be attached to the affidavit of publisher (proof of publication).

(5) The clerk of the circuit court shall record his certificate of notice together with the affidavit of publisher (proof of publication) in the official records of the county. For the recording of the certificate of notice and affidavit of publisher the clerk shall receive such fees for recordation as specified in Chapter 28, Florida Statutes.

TAX SALE CERTIFICATE NO. – 16112

This Certificate will be void seven years from date of issue.

STATE OF FLORIDA OFFICE OF TAX COLLECTOR

I, ALLEN C. CLARK, Tax Collector for the County of Palm Beach, in the State of Florida, do hereby certify that I did, at public auction, pursuant to notice given by law as required, on this the 1st day of June, 1989, issue to

~~COUNTY OF PALM BEACH~~
1982 TRUST FOR JESSICA LYNN ISRAEL

a tax sale certificate covering the parcel(s) hereinafter described for the sum of 277 DOLLARS and 54 CENTS [250.00 was struck out], said sum being the amount due for taxes, interest, costs and charges of the described parcel(s) for the year 1984, that the above named purchaser of this certificate or assigns will therefore be entitled to apply for a Tax Deed of such parcel(s) in accordance with the law unless the same shall be redeemed within such periods of time as are provided by law, by payment of such amount and interest thereon from the date of this certificate at the rate of eighteen percent per annum, if purchased by the county or eighteen percent per annum (or at such lower rate of interest as may be bid by any purchaser other than the county).

Said parcel(s) are described as follows:

PARCEL NUMBER	TYPE	VALUE	TAXABLE
00 42 45 10 01 004 0010			10,000

VALUE	CODE	ACRES
	20	

	DESCRIPTION
(illegible)	PALM BEACH RANCHES (UNREC) LT 1 BLK 4
	UNPAID UNDER SUIT 85-328 CA (L) D CASE DISMISSED

in the County of PALM BEACH, State of Florida.

The interest rate bid at the sale pursuant to Chapter 197, Florida Statutes, was 18.00 percent.

WITNESS my hand at WEST PALM BEACH, Florida, this 1st day of June, 1989.

Signature: /s/ Tax Collector

PALM BEACH COUNTY SHERIFF'S
ORIGINAL RETURN

SERVE	Court	Palm Beach
TO ROGER QUISENBERRY	Case #	Circuit Court
	16112	
	001	
ADDR	TYPE OF WRIT	
325 CONNISTON RD.	CERTIFIED COPY NOTICE	
WEST PALM BEACH, FL	OF APPLICATION FOR TAX DEED WITH WARNING & COPY	

ATTORNEY
CLERK OF CIRCUIT COURT, ROOM 201

PLAINTIFF:	COST
RE: ROGER F. QUISENBERRY	SERVICE $ 12.00
DEFENDANT:	CHECK 6626
N/A	PD

Received this writ on the 11 Day of DECEMBER A.D. 1991 and served the same on the within named ___ Corporation X Party ___ Garnishee X Defendant ___ Witness at 9 41 (AM Circled) PM on the 18 day of December A.D., 1991 in Palm Beach County, Florida.

[X] INDIVIDUAL

By delivering a true copy of this writ with the date and hour of service endorsed thereon by me and a copy of the Pleading.

[ ] SUBSTITUTE

By delivering a true copy of this writ with the date and hour of service endorsed thereon by me and a copy of the Pleading, by leaving the copies at (his/her) usual place of abode with any person residing

therein above the age of 15 years, to wit:

(Name and Relationship) and informing the person of the contents thereof (as defined in F.S. 48.031 (1).)

[ ] CORPORATE

By delivering a true copy of this writ with the date and hour of service endorsed thereon by me and copy of the Pleading.

to ——— as ——— of said corporation; in absence of the President, Vice President, Cashier, Secretary, General Manager, Director, Resident Agent or any officers. (as defined in F.S. 48.081)

[ ] WITNESS

By delivering a true copy of this writ with the date and hour of service endorsed thereon by me.

[ ] SUBSTITUTE WITNESS

By delivering a true copy of this writ with the date and hour of service endorsed thereon by me at (his/her) usual place of abode, with any person residing therein above age of 15 years, to wit:

(Name and relationship) (as defined in F.S. 48.031(2).)

and informing the person of the contents thereof.

[ ] POSTING

By posting on the premises located at ——— a true copy of this writ with the date and hour of service endorsed thereon by me and a copy of Pleadings attached as the above named defendant was not available for personal service.

[X] MISCELLANEOUS SUBJECT TO SERVE DOES NOT LIVE AT ADDRESS GIVEN. POST AS PER MAP INSTRUCTIONS (pdw circled) Serve at owners home address. 5421 So. Flagler Dr. W.P.B.

(illegible)

Served at residence 5421 So. Flagler Dr. W.P.B.

By /s/ J. Boccanfuso
Deputy Sheriff

ID.# 1860 RICHARD P. WILLE, SHERIFF
OF PALM BEACH COUNTY, FLO

Note: Only that service indicated by the X is applicable to this return – all other portions should not be considered.

ORIGINAL COPY